WTCI - 113 - P

THE PORT AUTHORITY OF NY & NJ

One World Trade Center
New York, New York 10048

Law Department

Jeffrey S. Green
General Counsel

Lawrence S. Hofrichter, Chief
Finance Division
(212) 435-6220
(201) 961-6600 x6220

November 5, 1993

THE PORT AUTHORITY OF N.Y. & N.J.
TENANT CONSTRUCTION REVIEW UNIT
RECEIVED
NOV 09 1993
NOTED
REFERRED TO

Charles G. Sturcken, Deputy General Counsel
The New York City
Department of Buildings - Executive Offices
60 Hudson Street
14th Floor
New York, New York

Dear Mr. Sturcken:

Enclosed please find a fully executed original of the Memorandum of Understanding between the Port Authority and the New York City Department of Buildings.

For your information, the gubernatorial review period for the enclosed agreement will end at midnight Wednesday, November 17, 1993. It has been a pleasure working with you on this matter.

Very truly yours,

Walter M. Frank
Deputy Chief, Finance Division
Law Department

Enclosures

cc: William H. Goldstein, Deputy Executive Director, Capital Programs

bcc: J.S. Green, P.S. Cooper (51N), A.A. DiNome (68S), E.J. Fasullo (72S), L.S. Hofrichter, F.J. Lombardi (72S), C.J. Maikish (35E), A.J. Raiola, S.T. Van de Walle

WTCI -113- P

MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW YORK CITY DEPARTMENT OF BUILDINGS AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

This Memorandum shall govern the relationship between the New York City Department of Buildings (the "Department") and the Port Authority of New York and New Jersey (the "Port Authority"), both parties entering into this agreement with the intention to establish procedures to be followed by the Port Authority for any building construction project ("Project"), to be undertaken by the Port Authority or any of its tenants at buildings owned or operated by the Port Authority and located in the City of New York (the "City), to assure conformance of Projects at such buildings with the standards set forth in the New York City Building Code (the "Code").

While the facilities of the Port Authority, an agency of the States of New York and New Jersey, are not technically subject to the requirements of local building codes, the long-standing policy of the Port Authority has been to assure that its facilities meet and, where appropriate, exceed Code requirements.

The purpose of this Memorandum is not only to restate that long-standing policy as part of an understanding with the City but to provide specific commitments to the Department, as the agency of the City responsible for assuring compliance with the Code, regarding procedures to be undertaken by the Port Authority for any Project at its facilities in the City to assure that the buildings owned or operated by the Port Authority within the City are in conformance with the Building Standards contained in the Code.

Accordingly, the Department and the Port Authority hereby agree as follows:

1. Port Authority Review. To assure conformance with the building standards set forth in the Code at the time of the design and construction of any Project, the Port Authority shall, in the case of each Project, thoroughly review and examine all plans in connection with such Project for conformance with the building standards set forth in the Code. Plans prepared for Projects to be undertaken by Port Authority tenants shall be prepared and sealed by a New York State licensed professional engineer or architect retained or employed by tenant; plans prepared for Projects to be undertaken by the Port Authority shall be prepared by a New York State licensed professional engineer or architect employed or retained by the Port Authority. The Port Authority's examination of plans shall be conducted by New York State licensed architects and engineers retained or employed by the Port Authority. The Port Authority engineer or architect approving the plans for any Project from the standpoint of Code conformance shall be a New York State licensed architect or engineer who shall not have assisted in the actual preparation of such plans.

2. Project File. The Port Authority shall maintain a file (the "Project File") for each Project which file shall at all times contain the most recently

prepared drawings, plans and any other documents required in connection with the review of the Project from the standpoint of Code conformance. In the case of any Project being effectuated by a tenant of the Port Authority (a 'Tenant Project') such file shall also include the Tenant Alteration Application prepared by the Tenant. In the case of any project administered by a line department of the Port Authority, such file shall include any construction application prepared in connection with such Project. The Line Depadments of the Port Authority are currently its World Trade, Aviation, Interstate Transportation, Port, and Regional Development Departments.

3. Project Certification. For each Tenant Project, the Port Authority shall require the Tenant to obtain the certification of a New York State licensed architect or engineer that such Project was constructed in accordance with the approved plans and specifications for such Project. For any Project effectuated by the Port Authority, the Chief Engineer or his successor in duties shall certify that the Project was constructed in accordance with the approved plans and specifications for the Project. Certifications for each Project shall be maintained in the Project File.

4. Copies of Project File. The Department may at any time request the Port Authority to provide it with a copy of any Project File and the Port Authority shall promptly provide a copy of the Project File to it.

5. Variances. The Port Authority shall promptly advise the Department of any Project approved by the Chief Engineer of the Port Authority which involves, in the judgment of the Chief Engineer of the Port Authority or his successor in duties, a variance from the clear requirements of the Code. In the event that the Department disagrees with the manner in which questions of Code conformance have been or are proposed to be dealt with in connection with such Project, it may so advise the Authority. The Port Authority shall seek expeditiously to resolve the matter. Any matter of Code conformance in connection with such Project which the Department believes involves an unacceptable variance from the requirements of the Code shall be subject to the further review of the Port Authority Board of Commissioners. The Commissioners shall be advised of the Department's views on the matter.

6. Inspections and Surveys. The Port Authority shall continue to conduct or cause to be conducted all building inspections, during both construction and post-construction periods, required under the Code. In addition, the Port Authority will continue to perform structural integrity inspections on a cyclical basis for all of its structures located in the City.

7. Port Authority Responsibility. As indicated above, the purpose of this Agreement is to set forth certain basic understandings between the Department and the Port Authority. It is understood, however, that the Port Authority with its tenants shall continue to bear the responsibility for life safety in buildings at its facilities and nothing in this Agreement is intended to impose any obligations of inspection or review on the Department. The Department shall refer back to the Chief Engineer of the Port Authority any requests for

information or interpretation which it may receive from tenants of the Port Authority with respect to any Project.

8. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority or the Department shall be held personally liable under any provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach thereof.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed, sealed and attested.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____
Stanley Brezenoff
Executive Director

DATE: 11/3/93

ATTEST:

FRANK M. SCHWARTZ
Notary Public, State of New York
No. 41-4632586
Qualified in Queens County
Commission Expires January 31, 19 95

DATE: 10/28/93

THE NEW YORK CITY DEPARTMENT BUILDINGS

By: _____
Stewart D. O'Brien
Acting Commissioner

Saraj

WTCI-113-P

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Commercial Litigation Division (68E)

Memorandum

Chief Executive's Office
Received: _____ Date Out: 10/19
To: ☑ D. Mott Bruno ☑ F. Lombardi
☑ J. Sy... ☐ P. Keough
Action
☐ Please handle
☐ Prepare response to my signature
☐ Review and ...
☑ For your ...
☐ Other
Comments

Division + Mgrs.

OCT 18 A11 : 02

TO: Lysa Meduri, Acting Secretary
FROM: Walter M. Frank
DATE: October 16, 1995
SUBJECT: **Transmittal of Letter Agreement - NYC Department of Buildings**

Copy to: J. Green, N. Chanfrau, P. Cooper, W. Goldstein, H. Henschel, F. Lombardi

Transmitted for the official records of the Port Authority is a Letter Agreement between the Port Authority and the New York City Department of Buildings providing for a change to the recent Supplement to the Basic Memorandum of Understanding between the Department and the Port Authority in connection with the Port Authority's Tenant Self-Certification Program at the World Trade Center.

Walter M. Frank
Deputy Chief
Commercial Litigation Division

WMF:gk

Encl.

THE PORT AUTHORITY OF NY & NJ

One World Trade Center
New York, N.Y. 10048

William H. Goldstein
Deputy Executive Director/
Capital Programs
(212) 435-8415
(201) 961-6000 x8415

September 15, 1995

Honorable Joel A. Miele, Sr., Commissioner
Department of Buildings
City of New York
60 Hudson Street
New York, New York 10013

Dear Commissioner Miele:

As you know, the Port Authority of New York and New Jersey (the "Port Authority") and the New York City Department of Buildings (the "Department") recently executed a supplement (the "Supplement") to the Memorandum of Understanding between the Department and the Port Authority to provide that the Port Authority's tenant at the World Trade Center could, in lieu of any review by the Port Authority, use New York State licensed architects or engineers meeting qualifications to be established by the Port Authority to: (A) prepare and review such tenant's plans for the construction of any project and certify that such plans conform with the building standards set forth in the New York City Building Code and (B) certify that such project has been constructed in accordance with the approved plans and specifications for such project.

As you also know, the Supplement provides that the person or firm performing the review and certification described in (A) above shall not be the same person or firm providing the certification described in (B) above. A copy of the Supplement is attached.

This letter will confirm the agreement of the Port Authority and the Department that, notwithstanding the last sentence of paragraph 1 of the Supplement, a single licensed consultant may make both certifications described in (A) and (B) of such paragraph, except where the alteration would change the character of the occupancy group under paragraph 27-237 of the New York City Building Code which would have been applicable to such space had such space been located in a privately owned building.

If the foregoing meets with your approval, please be good enough to sign this letter on behalf of the Department where indicated below and return one of the originals to me. In light of the fact that three originals of the Supplement were furnished to the Department, we have, for your record purposes, executed in total four originals of this letter.

Very truly yours,

William H. Goldstein
Deputy Executive Director
Capital Programs

THE NEW YORK CITY DEPARTMENT OF BUILDINGS

AGREED

BY: _____
Commissioner

SUPPLEMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW YORK CITY DEPARTMENT OF BUILDINGS AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

In November, 1993 the New York City Department of Buildings (the "Department") and the Port Authority of New York and New Jersey (the "Port Authority") entered into the attached Memorandum of Understanding (the "Memorandum") establishing certain procedures for the purpose of helping to assure conformance of construction projects to be undertaken at buildings owned or operated by the Port Authority in New York City with the standards set forth in the New York City Building Code.

Recently, the Department implemented its own optional plan review system providing for professional certifications of applications and plans and subsequent construction work falling under its jurisdiction.

The purpose of this Supplement to the Memorandum is to provide under the Memorandum for the adoption by the Port Authority of a procedure under which any Port Authority tenants at the World Trade Center may utilize New York State licensed architects or engineers to certify, in lieu of any review by the Port Authority, that (i) the tenant's construction plans are in conformance with the standards set forth in the New York City Building Code, and (ii) construction has been performed in accordance with such plans, it being understood that the persons making the certifications described in (i) and (ii) shall not be the same.

Accordingly, the Department and the Port Authority hereby agree that the Memorandum is amended as follows:

1. Professional Certification. Notwithstanding anything to the contrary in the Memorandum, the Port Authority may, in lieu of any reviews or certifications by the Port Authority provided for in the Memorandum, provide procedures pursuant to which its tenants at the World Trade Center may utilize New York State licensed architects or engineers meeting qualifications to be established by the Port Authority to (A) prepare and review such tenant's plans for the construction of any project and certify that such plans conform with the building standards set forth in the New York City Building Code and (B) certify that such project has been constructed in accordance with the approved plans and specifications for such project. The person or firm performing the review and certification described in (A) above shall not be the same person or firm providing the certification described in (B) above.

2. Other Provisions. Except as provided herein, all the terms and conditions of the Memorandum shall remain in full force and effect.

3. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority or the Department shall be held personally

liable under any provision of this Supplement or because of its execution or attempted execution or because of any breach or alleged breach thereof.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed, sealed and attested.

ATTEST:

SECRETARY

DATE: 6/7/95

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____
Executive Director

WITNESS:

FRANK M. SCHWARTZ
Notary Public, State of New York
No. 41-4632586
Qualified in Queens County
Commission Expires Jan. 31, 1997

DATE: 6/1/95

THE NEW YORK CITY DEPARTMENT OF BUILDINGS

By: _____
Commissioner

THE PORT AUTHORITY OF NY & NJ

One World Trade Center
New York, New York 10048

Law Department

Jeffrey S. Green
General Counsel

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November 5, 1993

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Very truly yours,

Walter M. Frank
Deputy Chief, Finance Division
Law Department

Enclosures

cc: William H. Goldstein, Deputy Executive Director, Capital Programs

bcc: J.S. Green, P.S. Cooper (51N), A.A. DiNome (68S), E.J. Fasullo (72S), L.S. Hofrichter, F.J. Lombardi (72S), C.J. Maikish (35E), A.J. Raiola, S.T. Van de Walle

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ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____
Stanley Brezenoff
Executive Director

DATE: 11/3/93

ATTEST:

FRANK M. SCHWARTZ
Notary Public, State of New York
No. 41-4632586
Qualified in Queens County
Commission Expires January 31, 1995

DATE: 10/28/93

THE NEW YORK CITY DEPARTMENT BUILDINGS

By: _____
Stewart D. O'Brien
Acting Commissioner